

SENATE JUDICIARY

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BILL NO. SB 236

Schindler, Pam**SB-236****From:** Sharpjfa@aol.com**Sent:** Friday, February 06, 2009 7:54 AM**Subject:** Death Penalty Equals More Protection for Innocents Montana**To:** Governor Brian Schweitzer, Montana Legislators, County Attorneys and media throughout the state**From:** Dudley Sharp, Justice Matters**The Death Penalty Provides More Protection for Innocents**
Dudley Sharp, Justice Matters, contact info below

Often, the death penalty dialogue gravitates to the subject of innocents at risk of execution. Seldom is a more common problem reviewed. That is, how innocents are more at risk without the death penalty.

To state the blatantly clear, living murderers, in prison, after release or escape, are much more likely to harm and murder, again, than are executed murderers.

Although an obvious truism, it is surprising how often folks overlook the enhanced incapacitation benefits of the death penalty over incarceration.

No knowledgeable and honest party questions that the death penalty has the most extensive due process protections in US criminal law.

Therefore, actual innocents are more likely to be sentenced to life imprisonment and more likely to die in prison serving under that sentence, that it is that an actual innocent will be executed.

That is. logically, conclusive.

16 recent studies, inclusive of their defenses, find for death penalty deterrence.

A surprise? No.

Life is preferred over death. Death is feared more than life.

Some believe that all studies with contrary findings negate those 16 studies. They don't. Studies which don't find for deterrence don't say no one is deterred, but that they couldn't measure those deterred.

What prospect of a negative outcome doesn't deter some? There isn't one . . . although committed anti death penalty folk may say the death penalty is the only one.

However, the premier anti death penalty scholar accepts it as a given that the death penalty is a deterrent, but does not believe it to be a greater deterrent than a life sentence. Yet, the evidence is compelling and un refuted that death is feared more than life.

Some death penalty opponents argue against death penalty deterrence, stating that it's a harsher penalty to be locked up without any possibility of getting out.

Reality paints a very different picture.

What percentage of capital murderers seek a plea bargain to a death sentence? Zero or close to

it. They prefer long term imprisonment.

What percentage of convicted capital murderers argue for execution in the penalty phase of their capital trial? Zero or close to it. They prefer long term imprisonment.

What percentage of death row inmates waive their appeals and speed up the execution process? Nearly zero. They prefer long term imprisonment.

This is not, even remotely, in dispute.

Life is preferred over death. Death is feared more than life.

Furthermore, history tells us that lifers have many ways to get out: Pardon, commutation, escape, clerical error, change in the law, etc.

In choosing to end the death penalty, or in choosing not implement it, some have chosen to spare murderers at the cost of sacrificing more innocent lives.

Furthermore, possibly we have sentenced 25 actually innocent people to death since 1973, or 0.3% of those so sentenced. Those have all been released upon post conviction review. The anti death penalty claims, that the numbers are significantly higher, are a fraud, easily discoverable by fact checking.

The innocents deception of death penalty opponents has been getting exposure for many years. Even the behemoth of anti death penalty newspapers, The New York Times, has recognized that deception.

To be sure, 30 or 40 categorically innocent people have been released from death row . . . (1) This when death penalty opponents were claiming the release of 119 "innocents" from death row. Death penalty opponents never required actual innocence in order for cases to be added to their "exonerated" or "innocents" list.

Anti death penalty folks simply invented their own definitions for exonerated and innocent and deceptively shoe horned large numbers of inmates into those definitions - something easily discovered with fact checking.

There is no proof of an innocent executed in the US, at least since 1900.

If we accept that the best predictor of future performance is past performance, we can, reasonably, conclude that the DNA cases will be excluded prior to trial, and that for the next 8000 death sentences, that we will experience a 99.8% accuracy rate in actual guilt convictions. This improved accuracy rate does not include the many additional safeguards that have been added to the system, over and above DNA testing.

Of all the government programs in the world, that put innocents at risk, is there one with a safer record and with greater protections than the US death penalty?

Unlikely.

Full report -All Innocence Issues: The Death Penalty, upon request.

Full report - The Death Penalty as a Deterrent, upon request

(1) The Death of Innocents: A Reasonable Doubt,
New York Times Book Review, p 29, 1/23/05, Adam Liptak,
national legal correspondent for The NY Times

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Mr. Sharp has appeared on ABC, BBC, CBS, CNN, C-SPAN, FOX, NBC, NPR, PBS, VOA and many other TV and radio networks, on such programs as Nightline, The News Hour with Jim Lehrer, The O'Reilly Factor, etc., has been quoted in newspapers throughout the world and is a published author.

A former opponent of capital punishment, he has written and granted interviews about, testified on and debated the subject of the death penalty, extensively and internationally.

Pro death penalty sites

<http://homicidesurvivors.com/categories/Dudley%20Sharp%20-%20Justice%20Matters.aspx>

www.dpinfo.comwww.cjlf.org/deathpenalty/DPinformation.htm

www.clarkprosecutor.org/html/links/dplinks.htm

www.coastda.com/archives.html

www.lexingtonprosecutor.com/death_penalty_debate.htm

www.prodeathpenalty.com

<http://yesdeathpenalty.googlepages.com/home2> (Sweden) www.wesleylowe.com/cp.html

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